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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Patent Examining Operations

Applicant(s): Zoe Weaver

Parent Serial No: 09/954,531 Art Unit: Unassigned

Filed: 18 September 2001 Examiner: Unassigned

Title: PROCESS FOR IDENTIFYING ANTI-CANCER THERAPEUTIC
AGENTS USING CANCER GENE SETS

Docket No: 689290-77

#6
Plunkett
6/30/02

U.S. Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202

Prior Art Statement

Sir:

In addition to the enclosed Information Disclosure Statement and List of References (Form 1449), Applicant notes for the record that the claims of the above-referenced patent application relate to novel uses of the recited genes, gene sequences and expression products in assays for chemotherapeutic agents as well as in the diagnosis of cancer and the presence of cancer-related genes and proteins in cells and tissues. The nucleotide sequences themselves are not be claimed as inventive.

In an effort to assist the Examiner, Applicant encloses herewith on two diskettes copies of the gene sequences and their corresponding GenBank Accession Numbers as first disclosed in the provisional applications relied on for priority in the present application. These are as follows:

1. Diskette 1 – Filename = Breast-1.txt – sequences and accession numbers listed in Figure 1 of U.S. Provisional Application 60/234,009 (filed 20 September 2000). There are 188 sequences (corresponding to SEQ ID NO: 1-188, respectively) contained in this listing, which represent genes found by Applicant to be expressed in infiltrating ductal carcinoma of the breast that are not expressed at detectable levels in normal breast cells.

2. Diskette 1 – Filename = Breast-2.txt – sequences and accession numbers listed in Figure 1 of U.S. Provisional Application 60/234,034 (filed 20 September 2000). There are 203 sequences (corresponding to SEQ ID NO: 189-391, respectively) contained in this listing, which represent genes found by Applicant to be expressed in breast carcinoma that are not expressed at detectable levels in normal breast.

3. Diskette 1 – Filename = Breast-3.txt – sequences and accession numbers listed in Figure 1 of U.S. Provisional Application 60/233,133 (filed 18 September 2000). There are 206 sequences (corresponding to SEQ ID NO: 392-597, respectively) contained in this listing, which represent genes found by Applicant to be expressed in infiltrating lobular carcinoma of the breast that are not expressed at detectable levels in normal breast.

4. Diskette 1 – Filename = Breast-4.txt – sequences and accession numbers listed in Figure 1 of U.S. Provisional Application 60/234,567 (filed 22 September 2000). There are 403 (corresponding to SEQ ID NO: 598-1000, respectively) sequences contained in this listing, which represent genes expressed in normal breast that are absent or not expressed in infiltrating ductal carcinoma of the breast.

5. Diskette 1 – Filename = Breast-5.txt – sequences and accession numbers listed in Figure 1 of U.S. Provisional Application 60/234,509 (filed 22 September 2000). There are 392 (corresponding to SEQ ID NO: 1001-1392, respectively) sequences contained in this listing, which represent genes found by Applicant to be expressed in normal breast cells but absent or not expressed in infiltrating lobular carcinoma of the breast.

All files are in text code (ASCII files) to facilitate searching and are contained on a single diskette.

It should be noted that most of the references cited in the accompanying Form 1449 and IDS (except for references G1, H1 and M1) were published after the Applicants' claimed priority date and are thus not considered by Applicants as representing prior art but are submitted to illustrate the efforts currently being made in this field.

The Commissioner is authorized to charge payment of any additional filing fees required under 37 CFR 1.16 associated with this communication or credit any overpayment to Deposit Account No. 03-0678.

EXPRESS MAIL CERTIFICATE

Express Mail Label No. EL146097944US

Deposit Date: 7 May 2002

I hereby certify that this paper and the attachments hereto are being deposited today with the U.S. Postal Service "Express Mail Post Office To Addressee" service under 37 CFR 1.10 on the date indicated above addressed to:

**U.S. Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202**

Respectfully submitted,



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Alan J. Grant, Esq.

5/7/02

Date



THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Arlington, VA 22202

Sir:

Pursuant to 37 C.F.R. §1.56(a), Applicant(s) hereby cite(s) the enclosed documents listed on the attached copy of Form PTO-1449 which are believed to be material to the patentability of the above-identified application. In addition, a supplemental disclosure statement has been filed citing related copending applications.

This Information Disclosure Statement is filed in accordance with the paragraph of 37 CFR §1.97 indicated below:

X §1.97(b) This Information Disclosure Statement is filed:

- (1) Within three months of the filing date of a national application; OR
- (2) Within three months of the date of entry of the national stage of an international application; OR
- (3) Before the mailing of a first Office Action on the merits.
No fee or statement is required.

 §1.97(c) This Information Disclosure Statement is filed after the period specified in paragraph (b) above, but before the mailing date of either:

- (1) A Final Action or under 37 CFR §1.113; OR
- (2) A Notice of Allowance under 37 CFR §1.311; AND

- is accompanied by either: (check one)
- The statement as specified in 37 CFR §1.97(e) set out below; OR
 - The fee of \$ 180.00 under 37 CFR §1.17(p).

§1.97(d) This Information Disclosure Statement is filed after the mailing date of either:

- (1) a Final Action or under 37 CFR §1.113; OR
- (2) A Notice of Allowance under 37 CFR §1.311;

BUT filed on or before payment of the Issue Fee; AND

is accompanied by:

- (1) The statement as specified in 37 CFR §1.97(e) as set forth below; AND
- (2) Petition is hereby made under 37 CFR §1.97(d) for consideration of this Information Disclosure Statement; AND,
- (3) The petition fee of \$130.00 set out in 37 CFR §1.17(i).

§1.97(e) The undersigned Attorney hereby states that:

- each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing date of this Information Disclosure Statement; or
- no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, or to the knowledge of the undersigned Attorney after making reasonable inquiry, was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing date of the Information Disclosure Statement.

Serial No: 09/954,531
Filed: 18 September 2001



The Commissioner is authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. 03-0678.

EXPRESS MAIL CERTIFICATE

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Deposit Date: 7 May 2002

I hereby certify that this paper and the attachments hereto are being deposited today with the U.S. Postal Service "Express Mail Post Office To Addressee" service under 37 CFR 1.10 on the date indicated above addressed to:

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Alan J. Grant 5/7/02

Alan J. Grant, Esq. Date

Respectfully submitted,

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